

**United States Department of Labor  
Employees' Compensation Appeals Board**

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**J.A., Appellant**

**and**

**DEPARTMENT OF THE NAVY, PUGET  
SOUND NAVAL SHIPYARD, Bremerton, WA,  
Employer**

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**Docket No. 08-376  
Issued: May 14, 2008**

*Appearances:*  
*Appellant, pro se*  
*Office of Solicitor, for the Director*

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:

DAVID S. GERSON, Judge  
MICHAEL E. GROOM, Alternate Judge  
JAMES A. HAYNES, Alternate Judge

**JURISDICTION**

On November 16, 2007 appellant filed a timely appeal of the Office of Workers' Compensation Programs' merit decision dated April 6, 2007 finding that he had not established an injury causally related to his federal employment. He also appealed an August 30, 2007 decision. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

**ISSUE**

The issue is whether appellant has met his burden of proof in establishing that he sustained an injury in the performance of duty on December 20, 2006.

**FACTUAL HISTORY**

On February 14, 2007 appellant, then a 24-year-old electrician's helper, filed a traumatic injury claim alleging that on December 20, 2006 he developed pain in the groin while working in a tight area behind ducting. He described his injury as a hydrocele. Appellant did not stop work.

In a letter dated March 6, 2007, the Office requested that appellant submit factual and medical evidence in support of his claimed traumatic injury. The Office allowed 30 days for a response. Appellant responded on March 28, 2007 and described the employment incident as occurring while he was sealing stuffing tubes on board a ship. He stated that he was unable to drop to his knees, an ideal position to complete the task, due to the limited space between the ducting and the bulkhead and the location of large stiffeners on the bulkhead both in front and behind him. Appellant was instead required to bend to tighten the nuts on the stuffing tubes. He stated, "I was unable to open my legs as to allow free movement of my genitals, more specifically my scrotum due to the lack of space between the fan ducting and the bulkhead.... After a short time of working in this space I began to experience discomfort and numbness in my scrotal area, at which time I decided it was time to leave the space."

Appellant reported to the employing establishment health clinic on January 8, 2007 due to moderate pain in his testicle. He stated the condition began on December 20, 2006 and that he sought treatment on December 27, 2006. Dr. Keith A. Schulze, a Board-certified urologist, completed a report on January 19, 2007. He noted that appellant was working in "tight quarters" bending over a table which resulted in a stretching and pressure on his scrotal area. Dr. Schulze found a large right-sided hydrocele on physical examination and diagnosed post-traumatic right-sided hydrocele. He submitted additional treatment notes dated January 23, February 22, 28 and March 14, 2007 noting draining the hydrocele and its rapid reaccumulation. Dr. Schulze completed a form report on February 13, 2007 and diagnosed post-traumatic hydrocele. He did not provide a history of injury. Dr. Schulze indicated with a checkmark "yes" that this condition was due to employment activity. He recommended surgery to correct this condition scheduled for March 1, 2007.

Appellant submitted a testicular sonogram dated February 21, 2007 which found a large right hydrocele and a sonogram dated February 22, 2007 finding that the hydrocele was nearly completely drained. He sought treatment at the emergency room on February 21, 2007 for a recurrent hydrocele. Appellant underwent surgery on February 27, 2007.

By decision dated April 6, 2007, the Office denied appellant's claim finding that the medical evidence was not sufficient to establish that his diagnosed condition resulted from his accepted employment activities on December 20, 2006.

Appellant requested reconsideration on May 2, 2007 and submitted additional medical evidence. Dr. Schulze completed a report on April 27, 2007 regarding the causal relationship between appellant's employment activities and his diagnosed condition. He described appellant's work in tight quarters and stated this caused a traumatic compression injury to his right hemiscrotum and a "profound hydrocele" with "evidence of vascular compromise due to the pressure of the hydrocele on the testicular blood supply." Dr. Schulze stated, "My opinion is that indeed a traumatic injury could certainly cause this disorder. This is generally caused by some type of local inflammation which may have been caused by the trauma resulting in excess excretion of lymphatic fluid within the sack of the tunic vaginalis. The history and timing of the hydrocele are certainly consistent with it being a causative factor."

By decision dated August 30, 2007, the Office stated that it declined to reopen appellant's claim for consideration of the merits. In the accompanying memorandum, the claims examiner

reviewed Dr. Schulze's April 27, 2007 report and found that it was "speculative in nature and does not meet [Federal Employees' Compensation Act] standards to establish causal relationship."

### **LEGAL PRECEDENT**

The Office's regulations define a traumatic injury as a condition of the body caused by a specific event or incident, or series of events or incidents, within a single workday or shift. Such condition must be caused by external force, including stress or strain, which is identifiable as to time and place of occurrence and member or function of the body affected.<sup>1</sup> In order to determine whether an employee sustained a traumatic injury in the performance of duty, the Office begins with an analysis of whether "fact of injury" has been established. Generally, fact of injury consists of two components that must be considered in conjunction with one another. The first component to be established is that the employee actually experienced the employment incident that is alleged to have occurred. The second component is whether the employment incident caused a personal injury. Causal relationship is a medical question that can generally be resolved only by rationalized medical opinion evidence.<sup>2</sup> Such opinion of the physician must be one of reasonable medical certainty and must be supported by medical reasoning explaining the nature of the relationship between the diagnosed condition and the employment.<sup>3</sup>

### **ANALYSIS**

Appellant filed a claim for a traumatic injury which the Office denied on April 6, 2007 finding that he failed to submit sufficient medical evidence in support of his claim. He requested reconsideration on August 2, 2007 and by decision dated August 30, 2007, the Office stated that the additional evidence was not sufficient to require review of the merits of appellant's claim. Although the Office's August 30, 2007 decision indicates on its face that it was not a review of the merits of appellant's claim, perusal of this decision establishes that it did in fact constitute a merit review. This decision evaluates the weight of the medical evidence by finding that the April 27, 2007 report from Dr. Schulze, a Board-certified urologist, was speculative in nature and not sufficient to establish causal relationship, rather than merely evaluating its relevance and pertinence to appellant's claim. As the August 30, 2007 decision of the Office in fact reviewed the merits of appellant's claim, the Board will do so on the present appeal.<sup>4</sup>

The Office has found that appellant submitted sufficient factual evidence to establish that the employment activities on December 20, 2006 occurred as alleged. However, the Office found that appellant has not submitted sufficient medical opinion evidence to establish a causal relationship between his diagnosed condition of hydrocele and the employment activities.

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<sup>1</sup> 20 C.F.R. § 10.5(ee).

<sup>2</sup> *Steven S. Saleh*, 55 ECAB 169, 171-172 (2003).

<sup>3</sup> *Leslie C. Moore*, 52 ECAB 132, 134 (2000).

<sup>4</sup> *Delphyne L. Glover*, 51 ECAB 146, 147 (1999).

In support of his claim, appellant submitted reports from Dr. Schulze dated February 13 and April 27, 2007 addressing the causal relationship between his employment activity of working in tight quarters and his diagnosed condition of hydrocele. In the February 13, 2007 report, Dr. Schulze merely indicated with a checkmark “yes” that he believed that the condition of post-traumatic hydrocele was due to the employment activity. He did not describe appellant’s employment activity on that report and did not offer explanation for his conclusion. The Board has held that an opinion on causal relationship which consists only of a physician checking “yes” to a medical form report question on whether the claimant’s condition was related to the history given is of little probative value. Without any explanation or rationale for the conclusion reached, such a report is insufficient to establish causal relationship.<sup>5</sup> As Dr. Schulze did not provide any explanation for his conclusion, the February 13, 2007 report is not sufficient to meet appellant’s burden of proof.

In his April 27, 2007 report, Dr. Schulze stated that working in tight quarters caused a traumatic compression injury to appellant’s right hemiscrotum and a hydrocele. He found that a traumatic injury could cause appellant’s conditions and that there was a temporal connection between appellant’s condition and his employment activity in December 2006. A temporal relationship alone is insufficient to establish causal relationship.<sup>6</sup> Dr. Schulze further noted that a hydrocele was usually caused by some type of local inflammation and that in appellant’s case his hydrocele “may have been caused by the trauma.” While the medical opinion of a physician supporting causal relationship does not have to reduce the cause or etiology of a disease or condition to an absolute certainty, neither can such opinion be speculative or equivocal. The opinion of a physician supporting causal relationship must be supported with affirmative evidence, explained by medical rationale and be based upon a complete and accurate medical and factual background of the claimant.<sup>7</sup> Dr. Schulze couched his opinion in speculative terms noting that trauma may have caused the local inflammation which led to the development of the hydrocele, and he did not offer any medical reasoning explaining how working in tight quarters could have caused the alleged traumatic compression injury. Without additional medical reasoning explaining how appellant’s testicular injury occurred from working in tight quarters and how this caused the inflammatory process which resulted in the hydrocele, Dr. Schulze’s reports are not sufficient to meet appellant’s burden of proof.

### **CONCLUSION**

The Board finds that the August 30, 2007 decision of the Office was in fact a review of the merits. The Board further finds that appellant has not submitted the necessary rationalized medical opinion evidence to establish that he sustained an injury in the performance of duty on December 20, 2006.

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<sup>5</sup> *Lucrecia M. Nielson*, 41 ECAB 583, 594 (1991).

<sup>6</sup> *Louis R. Blair, Jr.*, 54 ECAB 348, 350 (2003).

<sup>7</sup> *Samuel Senkow*, 50 ECAB 370, 376-77 (1999).

**ORDER**

**IT IS HEREBY ORDERED THAT** the August 30, 2007 decision of the Office of Workers' Compensation Programs is affirmed as modified.

Issued: May 14, 2008  
Washington, DC

David S. Gerson, Judge  
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge  
Employees' Compensation Appeals Board

James A. Haynes, Alternate Judge  
Employees' Compensation Appeals Board